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**JUL 30 2004**

**OFFICE OF PETITIONS**

In re Application of :  
Max I. Gurth :  
Application No. 10/669,566 :  
Filed: September 25, 2003 :  
Attorney Docket No. 8647-PA04 :

**ON PETITION**

This is a decision on the petition under 37 CFR 1.137(b), filed July 20, 2004, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." No additional fee is required with any renewed petition. Petitioner is advised that this is **not** a final agency action decision.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed December 22, 2003. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on February 23, 2004.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: (1) the required reply (unless previously filed), which may met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute, but must be the payment of the issue fee or any outstanding balance thereof in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)). This petition lacks item (1) above.

As to item (1), the Notice to File Missing Parts of Nonprovisional Application mailed December 22, 2003, additionally required the submission of substitute specification in compliance with 37

CFR 1.52, 1.121(b)(3), and 1.125, is required. The specification, claims, or abstract page(s) submitted is not acceptable and cannot be scanned or properly stored because because the "papers must be legibly written either by a typewriter or mechanical printer in permanent ink or its equivalent in portrait orientation on flexible, strong, smooth, non-shiny, durable, and white paper...." Since petitioner has filed to submit the reply required by 37 CFR 1.137(b)(1), the petition must be dismissed.


Further correspondence with respect to this matter should be addressed as follows:

**By mail:** Mail Stop PETITION  
Commissioner for Patents  
Post Office Box 1450  
Alexandria, VA 22313-1450

**By hand:** Customer Window located at:  
  
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Arlington, VA 22202

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Telephone inquiries concerning this decision should be directed to Wan Laymon at (703) 306-5685.

  
Wan Laymon  
Petitions Examiner  
Office of Petitions  
Office of the Deputy Commissioner  
for Patent Examination Policy